HONOURABLE SRI JUSTICE J. CHELAMESWAR

AND

HONOURABLE SRI JUSTICE P. SWAROOP REDDY

WRIT APPEAL No.698 OF 2006

DATE: -03-2007

Between:

B. Nishitha
Rep. By her father and natural
Guardian B.V.V. Satyanarayana

.. Petitioner

And

The Commissioner for Government
Examinations,
Board of Secondary Education,
Hyderabad & another

.. Respondent

JUDGMENT: (Per Hon'ble Sri Justice P. Swaroop Reddy)

This Writ Appeal is filed by the unsuccessful writ petitioner in W.P. No.12178 of 2005.

2. Appellant filed the above writ petition through her father, natural guardian, with the prayer as follows:

> ".....to issue an appropriate writ, or order or direction more particularly one in the nature of writ of mandamus declaring as illegal and arbitrary improper valuation/ tabulation of the Composite Telugu Paper-I and English paper of the SSC of the petitioner (R.No.0161542) conducted by the respondents and issue a consequential direction to the respondents to re-value the said papers."

3. The facts, in brief, are as follows:

Appellant appeared for S.S.C. public examination with R.No.0161542 in March, 2005 and secured more than 90% marks. According to her, she was expecting 580 out of 600 marks as she had done exceedingly well in the

examination, she secured following marks.

I Lang	II Lang	Maths	Science	Social	III Lang	Total
78	96	100	98	98	89	559

According to her, she should have secured 19 out of 20 in Sanskrit and 79 out of 80 in Telugu, as per the assessment conducted by the School, where she studied. In the grand test conducted on 11-03-2005 by her School, she secured 77 out of 80 marks in Composite Telugu. According to her, at the behest of certain vested interests, marks secured by her in Composite Telugu and English papers have been deliberately reduced to see that she does not secure higher rank. After publication of results, she made a representation to the Commissioner, Board of Secondary Education, Government of Andhra Pradesh requesting to furnish xerox copies of her Composite Telugu and English answer scripts, but there was no positive response. She made an application on 02-05-2005 for recounting of marks in Composite Telugu Paper – I and English by paying necessary fee.

ii) As extracted by the learned Single Judge, her grievance as mentioned in paras 10 and 11 of the affidavit is as follows:

> *"It is submitted that valuation of Composite Telugu Paper-1 has not been done as per the scheme prescribed or there has been an error at the time of tabulating the marks either by accident or design.*
> *The Petitioner submits that at the behest of certain vested interests, the marks secured by the petitioner in Composite Telugu and English papers have been deliberately reduced to see that the petitioner does not secure a high rank. The petitioner submits that this is at the behest of a rival school in collusion with the officials. The petitioner submits that totalling in tabulation is entrusted to third party and therefore, there is every possibility for tampering with the total. It is respectfully submitted that as per the assessment done by subject experts in these school on the basis of the Scheme of evaluation, the petitioner ought to have secured 98 in Telugu, 92 in English, whereas she was awarded only 78 and 89. If the petitioner was awarded these marks, her total would have been 582, thereby she*

would have got 3rd Rank in the State.
The petitioner has come to know and verily believe the same to be true that a rival management of the corporate schools gaining stealthy access of the code numbers could have managed the Examiner to deliberately reduce the marks. It is submitted that unless the answer sheets of the petitioner in Composite Telugu Paper and English are summoned and the Petitioner be permitted to see the same, the petitioner will suffer irreparable loss.

'It is respectfully submitted that the Respondents has the status of loco parentis and is expected to take all the care and caution that is necessary at the time of valuation of answer scripts and tabulation of the marks and is also expected to ensure that the valuation is fair, accurate and in terms of the key supplied. As there has been failure on the part of the Respondents in either valuation of answer scripts or tabulation of marks or both. The petitioner was not given rightful marks secured by her, thereby her assessment and evaluaton of the examination taken by her had been adversely affected. The respondents failure to award marks secured by the petitioner on proper valuation / totalling / tabulation infringes the petitioner' right to education. The action of the Respondents in permitting such gross irregularity at the time of tabulation/evaluation and failure to take corrective steps on representation is arbitrary. Even though there is no provision for re-valuation in as much as the Respondents have released a press note for furnishing Xerox copies of the answer scripts on payment of prescribed fee. The same ought to have been supplied to the petitioner by the Respondents to dispel the allegation that there has been deliberate manipulation in the valuation of answer scripts or tabulation of marks. As already stated, the petitioner is extremely bright student and had put in long and tiring hour sat school and home and had taken several tests securing excellent marks and there is no possibility for the petitioner to have secured 78 marks. The improper valuation/ tabulation has caused extreme anxiety and mental agony to the child. She is unable to accept that her hard work could not secure the result. She is saddened by the fact that all her hard work had gone in vain on account of manipulations and maneuvers by certain vested interests at the valuation/tabulation of marks. I apprehend that the petitioner may lose faith in the system and this would effect her performance in the intermediate course which is very

crucial for determining her career. In those circumstances, it is just and necessary in the interests of justice be pleased to direct the Respondents to produce answer scripts of the petitioner in Composite Telugu Paper-1 and English and permit the petitioner to verify the same to see that no sheets are removed or marks not properly totalled and if necessary cause re-valuation of the same by an independent expert agency."

iii) Before the learned Single Judge, respondents filed counter affidavit stating that in pursuance of the application made by the petitioner for recounting of marks, her valued answer scripts have been called for from the respective spot valuation camps. In the process of recounting, it was found that there was variation of 03 marks in the first language paper – I. Accordingly, benefit of 03 marks was given to her, on account of which her marks in first language paper – I are revised from 59 to 62, but there is no change of marks on re-totalling in English subject. Revaluation of answer scripts is impermissible as per G.O.Ms. No.63, Education, dated 16-01-1969 and Government Memo No.1862-K2/74-1, dated 27-04-1974. In the counter affidavit, procedure adopted for valuation is given in detail, where it is mentioned that special instructions were issued for the first time in March, 2005 to all the Chief-examiners to verify all the answer scripts where 45% and above marks are awarded in all the languages except second language and 90% marks in respect of second language and that there shall be no over valuation in the script. The evaluation system is designed to ensure confidentiality as well as speedy and accurate disposal. The allegation that marks secured by the appellant have been deliberately reduced at the behest of the rival school in collusion with the officials is baseless.

4. Learned Single Judge after considering the entire material on record and relying on the decisions of the Apex Court in ***Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kurmarshethi***[1] and ***Government of Andhra Pradesh, Rep. by its Secretary, Education Department v. N. Venkateswara Rao***[2]**,** dismissed the writ petition holding that record reveals

that answer scripts of the petitioner were checked and rechecked by the examiners and the question of revaluation does not arise. Aggrieved by the same, the present writ appeal is filed.

5. Now the contention of the learned counsel for the appellant is that a perusal of the answer scripts shows that marks obtained by the appellant were unjustly deducted on the pretext of over-valuation though the answer sheets and the key to the answers supplied would reveal that the appellant has correctly answered the questions.

6. Now the point for consideration is whether there are any grounds for allowing the appeal ?

7. We have gone through the original answer sheets. There is some truth in the contention of the appellant that for certain questions, though marks were given correctly, there is reduction of marks on the name of over-valuation. But with regard to some questions, reduction of marks is correctly done, as there are mistakes in the answers to certain extent. As has been stated, valuation of the answer scripts is the discretion of the persons concerned and there is very little scope for interference. As referred by the learned Single Judge, in this contest, it is apt to refer to the following observation of the Supreme Court in ***Paritosh's Case***
(1 Supra).

> *"As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working for the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded."*

8. Thus, it is a case, where, no doubt, for certain answers, marks were unjustly reduced at the time of rechecking on the pretext of over-valuation, but

for some other answers, there was really over-valuation and the marks were correctly reduced. As referred above, it is not desirable for the Courts to interfere with the valuation, particularly, when there is no substantial injustice to the Student and there is only marginal difference in the marks. It is not a case, where there is gross injustice like awarding 5 marks to the question where the answer script reveals that candidate should have been awarded 20 marks, perhaps.

9. The allegation of the appellant that, at the instance of some vested interest, her marks were reduced cannot be accepted at all as the papers were valuated at spot valuation centres after giving code numbers to the answer scripts etc. There was very remote possibility of anyone knowing about the answer sheet being that of the appellant to say that deliberately her marks were reduced.

10. Apart from all other things, it is a case where the appellant has not lost the opportunity of getting admission in any educational institution on account of marks that were allegedly reduced. By now she must have completed her intermediate final year also, since in March, 2005 she appeared for SSC public examinations and now we are in March, 2007. It is not even her allegation that she lost the opportunity of joining any educational institution on account of her getting less marks. Thus, it is a case where though there were some inaccuracies in reducing the marks at the time of rechecking on the name of over-valuation, legally there is no possibility of interfering with the discretion of valuation. Interference by Courts in such matters would open floodgates of litigation and allowing revaluation would lead to several undesirable consequences.

11. In the circumstances, we see no grounds to interfere with the impugned order.

The Writ Appeal fails and is dismissed. No order as to costs.

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J. CHELAMESWAR, J

March _____, 2007

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P. SWAROOP REDDY, J

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[1] AIR 1984 S 1543

[2] 1994(1) ALT 549 (DB)